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Fixing the endangered species law

By Rick Krause

What do you get when you bring 23 lawyers, scientists and academicians from across the political spectrum together to try to reach agreement on one of the thorniest resource issues of the day?

The Keystone Center, a non-profit group formed to facilitate dialogues on pressing issues, decided to find out. At the request of six senators writing legislation to update the Endangered Species Act, the group convened to try to reach consensus on the contentious issue of habitat protection.

Since its enactment in 1973, the ESA's burdensome restrictions on land use in the name of habitat protection have pitted farmers, ranchers and other landowners against the federal government and environmental organizations - for the right to make a living.

The Keystone working group agreed that the current regulatory approach to habitat protection could be improved. Over three months that included three, two-day meetings and numerous conference calls, the group put aside organization positions and explored better ways to address the needs of species, reduce the impacts on landowners and streamline the regulatory process.

The group focused on a bold new scheme to replace the current inefficient critical habitat system. That scheme includes a significantly increased role for voluntary landowner incentives, a beefed-up recovery planning role and a revised standard for consultations.

While the group could not offer a comprehensive concept to replace critical habitat, there was agreement in a number of areas that can provide the impetus for improving the ESA.

First, acknowledgement by the group that the current system can be improved through legislation is a signal to the Senate that the law is not working as it should, and it offers encouragement and support that it can be improved. Further, the group offers a blueprint for a viable alternative to critical habitat, even if it does not provide the details.

The areas where the group reached general agreement are significant. For example, there was broad agreement that more and better incentives should be created for private landowners as a means of promoting the recovery of listed species on private lands. This is important because approximately 80 percent of all listed species live on private lands.

The group also highlighted the need for the development of scientifically sound, financially reasonable and politically credible recovery plans that involve all interested parties. Species recovery begins with a sound recovery planning process.

Finally, the Keystone process sets the stage for future discussions among the parties outside of Keystone. Working group members discovered they had a lot more in common than expected, and therein exists the promise that the relationships forged by Keystone might blossom into future collaboration.

Some may consider the process a failure, because complete consensus on all issues was not achieved. However, the group did give the Senate a number of viable options to improve the way the ESA works for all. Not bad for a group of 23 lawyers, scientists and academicians from across the political spectrum.

- Rick Krause is senior director of regulatory relations for the American Farm Bureau Federation and was a member of the Keystone Center group.